

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

CHARLES FREEMAN §
v. § CIVIL ACTION NO. 6:17cv546
LORIE DAVIS, ET AL. §

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE
AND ENTERING FINAL JUDGMENT

The Plaintiff Charles Freeman, a former inmate of the Texas Department of Criminal Justice, Correctional Institutions Division proceeding *pro se*, filed this civil rights lawsuit under 42 U.S.C. §1983 complaining of alleged violations of his constitutional rights. This Court referred the case to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges.

A Report and Recommendation regarding a motion for partial summary judgment was sent to Freeman at his last known address on April 3, 2019. This Report was returned on May 21, 2019, with the notation that Freeman had been released. Prison records show Freeman was released on January 2, 2019. To date, however, he has not notified the Court of his mailing address or current whereabouts, despite the fact that the lawsuit form which he signed specifically states that it is the plaintiff's responsibility to inform the Court of any change of address and its effective date. The form also notified the plaintiff that failure to file a notice of change of address could result in the dismissal of the case.

After review of the pleadings and record, the Magistrate Judge issued a Report recommending dismissal of the lawsuit without prejudice for failure to prosecute. The Magistrate Judge also recommended that the statute of limitations be suspended for 60 days following the date

of entry of final judgment. A copy of this Report was sent to Freeman at his last known address, return receipt requested, but no objections have been received; accordingly, he is barred from *de novo* review by the District Judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to proposed factual findings and legal conclusions accepted and adopted by the district court. *Douglass v. United Services Automobile Association*, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

The Court has reviewed the pleadings in this cause and the Report of the Magistrate Judge. Upon such review, the Court has determined that the Report of the Magistrate Judge is correct. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir.), *cert. denied*, 492 U.S. 918, 109 S.Ct. 3243 (1989) (where no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law.") It is accordingly

ORDERED that the Report of the Magistrate Judge (docket no. 35) is **ADOPTED** as the opinion of the District Court. It is further

ORDERED that the above-styled civil action is **DISMISSED** without prejudice for failure to prosecute. It is further

ORDERED that the statute of limitations on the claims raised in this lawsuit is **SUSPENDED** for a period of sixty (60) days following the date of entry of final judgment in this case. *Mills v. Criminal District Court No. 3*, 837 F.2d 677, 680 (5th Cir. 1988). Finally, it is

ORDERED that any and all motions which may be pending in this civil action are hereby **DENIED**.

So **ORDERED** and **SIGNED** August 6, 2019.



Ron Clark, Senior District Judge